

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA OF
NORTHERN DIVISION

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|----------------------------|---|-------------------------|
| RICKY WADE DAVIS, #173073, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | CASE NO. 2:06-cv-10-MEF |
| |) | WO |
| SGT. BRYANT, |) | |
| |) | |
| Defendant. |) | |

ORDER

After an independent review of the file, it is the ORDER, JUDGMENT and DECREE of the court that:

1. The plaintiff's objection (Doc. #49) to the Recommendation of the Magistrate Judge filed on March 27, 2008 is overruled;

2. The Recommendation of the Magistrate Judge (Doc. #48) entered on March 14, 2008 is adopted;

3. The motion for summary judgment with respect to the plaintiff's excessive force claim against defendant Bryant in his official capacity is GRANTED and such claim is DISMISSED with prejudice and the defendant is entitled to absolute immunity on any such claim.

4. The motion for summary judgment as to the plaintiff's excessive force claim against defendant Bryant in his individual capacity is DENIED.

4. The plaintiff's excessive force claim against defendant Bryant in his individual

capacity arising from the alleged December 30, 2005 physical altercation will be set for trial.

DONE this the 28th day of March, 2008.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE